

WP(C) 6390/2007

BEFORE

HON'BLE MR. JUSTICE AMITAVA ROY

The pleaded case of the petitioners, is that, they have booked a consignment of coal in one rake consisting of 41 BCN/BCNA, wagons through the railways from Goalpara Town to Rampur and Meerut in Uttar Pradesh on 10.12.2007. The coal was loaded on volumetric basis as per marked height in the presence of the Railway officials and other staff to their satisfaction. This had to be done as there was no weighbridge at Goalpara Town Railway station. After such re-weighment, the Railway receipts were issued by the authorities at Goalpara town and the corresponding freight was demanded by the Railway, which was accordingly deposited on 10.12.2007. According to the petitioners, without their knowledge, the rake was re-weighed en-route at Rangapani Weigh Bridge, which according to their information, is defective. The petitioners' request for weighing the rake again at their cost and in their presence having been declined, they are before this Court.

I have heard Dr. AK Saraf, Senior Advocate, assisted by Ms. B Goyal and Ms. MM Khatkhaty, Advocates for the petitioners and Mr. S Sarma, learned Standing counsel, NER Railways.

After hearing the learned counsel for the parties and on a consideration of the sworn statements made in the petition, I close this petition with the following directions: -

(1) The respondents would allow re-weighment of the petitioners' coal rake at any properly functional weighbridge on the route to the destination at Rampur and Meerut, U.P. in the presence of the Station Master of the concerned railway station.

(2) The petitioners or any authorized representative of theirs' shall execute a Bank guarantee to the satisfaction of the respondent authorities in favour of the respondent No. 8, the Divisional Railway Manager, Northern Railway, Muradabad Division, Muradabad, UP. Execution of the Bank guarantee would be a condition precedent for re-weighment as ordered.

(3) All expenses for the re-weighment shall be borne by the petitioners.

(4) The respondent authorities shall release the petitioners' coal immediately after the re-weighment is complete and all dues payable by the petitioners are cleared.

(5) On such dues being paid, the respondent authorities would also release the Bank guarantee within a period of two (2) weeks therefrom.

The petition stands closed in the above terms. No costs.